

**BEFORE THE  
DEPARTMENT OF TRANSPORTATION**

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<b>In The Matter of</b>	)	
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	)	<b>Docket Nos. OST-97-2881</b>
	)	<b>OST-97-3014</b>
	)	<b>OST-98-4775</b>
<b>Computer Reservations</b>	)	<b>OST-99-5888</b>
<b>System (CRS) Regulations;</b>	)	
<b>Statements of General Policy</b>	)	
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**COMMENTS OF DOB SYSTEMS, LLC**

DOB Systems is an independent company with no affiliation with any airline or GDS. We have been in the business of processing and analyzing Marketing Information Data Tapes (MIDT) since 1983, which is around the time when the data first became available to the airline industry. We are headquartered at 10777 Northwest Frwy, Suite 350, Houston, Texas and employ approximately 20 persons.

We acknowledge that the intent of the proposed MIDT rule changes is virtuous, however we believe that the effects from those proposed changes would create formidable economic and legal repercussions for the airlines currently using the data, the GDSs currently selling data, and even the groups with complaints against the data. Moreover, a short time table regarding the implementation of the proposed rule changes would only serve to further intensify those adverse repercussions. We do not believe that the impact of the changes proposed nor the actual effects of MIDT utilization have been addressed or evaluated properly.

MIDT, which has been around for approximately 20 years, is a tool that has deep roots in the operational infrastructures and decision-making processes of many domestic and international airlines, GDSs, and independent companies. It is our belief that the data restrictions that have been proposed could critically devalue MIDT to a level that would persuade airlines to discontinue investing in the data completely.

Were the proposed restrictions adopted, the MIDT data would be much less attractive to airlines because, to the extent some airlines opt out of being included in the data, the data would no longer provide a thorough and accurate picture of market size or level of demand. Thus, airlines could no longer rely on the data, as they do today, to assess particular routes for marketing and planning purposes, including the number of flights that might be required to serve the market. Today, MIDT data is the most complete and

comprehensive source of O&D information available to the airline industry. There is no other source of competitive information that could be used as an effective substitute. Further, to the extent that the data no longer showed information on sales by particular travel agencies, airlines would no longer have the ability to track how specific agents appointed by them are doing with respect to sales. This will undermine the ability of the airline to negotiate or adjust override incentives and make it more difficult for airlines interested in developing a new market to identify the full range of agencies on which they may wish to primarily rely in developing the market.

Airline personnel in departments ranging from sales and marketing to planning, scheduling, and yield management utilize MIDT. Over the years, these departments have developed business models dependent on the data that assist them in making major business decisions. The proposed restrictions would eliminate fundamental data elements that would render those business models worthless. As the Department has acknowledged, the GDSs also have an enormous interest in MIDT. The GDSs have invested considerable amounts of time, resources, and personnel to enhance and improve the product throughout the years.

There are also many other companies such as our own that have benefited from the existence of MIDT and whose future now appears to be in jeopardy. We have numerous contractual obligations with our clients to provide MIDT processing and analytical services for the next several years, which we would be unable to fulfill. Additionally, we have numerous contracts with our vendors who are dependent on our continued existence, which puts them in a position to be indirectly affected by this decision. Over the past 20 years, the availability of MIDT has created an industry that has flourished and provided prosperity for a long chain of beneficiaries, vendors, and suppliers, all of whom will be vulnerable if the data is regulated and ultimately eliminated.

One of the proposed restrictions, which suggests denying airlines access to data on bookings made on competing airlines by individual travel agencies, is particularly troublesome. Most of the complaints that have led to this proposal originate from travel agencies; some of them come from smaller airlines, and a few come from groups such as the NTBA. Some of these complaints argue that airlines are using such information to implement incentive commission programs or that airlines use the data to coerce travel agencies into reducing or ending their bookings on competing airlines.

Each year, airlines spend huge amounts of revenue on incentive programs for travel agencies. MIDT helps airlines to identify agencies that serve as the leading sales representatives in particular markets of interest, allowing them to implement more efficient incentive programs, which translates into significant cost-savings and increased return on investment. MIDT gives the airline concrete evidence on whether or not an agency is living up to its negotiated incentive goals. Airlines do not necessarily need MIDT in order to implement override and incentive commissions. However, the data just allows them to implement those commission programs more efficiently. Even without MIDT, the airlines are able to compare agency performance by use of the revenue figures provided by ARC and IATA. The use of the MIDT just makes the process more

accurate. In this sense, MIDT enhances competition by allowing airlines to become more effective in their sales efforts.

Obviously there is frustration among the travel agency community. It is alleged that MIDT provides the airlines with an edge when negotiating incentive goals, and that agencies are at a disadvantage due to the fact that they do not have access to the same data that is being utilized by the airlines. Travel agencies know how many bookings they make, but without MIDT, they don't always know how many of those bookings actually flew. In response to these concerns, the GDSs are starting to introduce products to the travel agencies community that would give them access to the same Marketing Data the airlines are using, thus leveling the playing field and increasing their negotiating power. The market, in other words, is adjusting to meet the concerns of the agencies.

Some of those opposed to MIDT are making very serious accusations that airlines are coercing travel agencies into ending their bookings on competing airlines and engaging in predatory pricing and signaling. However, an airline doesn't need MIDT in order to engage in predatory pricing or signaling. It seems unreasonable that, if in fact such a case is occurring, fingers are being pointed at the data rather than the airline.

Arguments have been made that the airlines' ability to obtain detailed real-time data on their competitors' sales and fares would not promote competition. Let it be clear that MIDT has never contained data revealing the amount of a ticket fare on any airline. Rather the data reports on which airlines are prevailing in regards to specific markets and agencies. In our experience, we have discovered that MIDT shows airlines where they need to be more competitive, resulting in competitive pricing beneficial to consumers. Further, the data is not actually provided in "real-time." Even for airlines that buy the data daily, there is a lag time of several days before we receive it from the GDSs. It then takes us several days to process the data before providing it to our airline customers.

Today, the so-called dominant airlines are the ones that are in serious economic trouble. The proposed restrictions of the MIDT will surely assist in expediting their decline. The end of MIDT will not make it any easier for smaller airlines to compete either. Dominant airlines will still hold their dominance in certain markets and their so-called "power" over certain agencies. Smaller airlines have to get creative to succeed against the big boys. Currently, there are many small airlines all over the world that have created a recipe for success. Two examples include Southwest Airlines and Ryan Air. Some of their success can be attributed to competitive pricing, a product that satisfies demand, and customer based incentives. Each year, more and more people are booking on the Internet or directly with the airline and bypassing the travel agent all together. Small startup airlines that fail to compete in big airline dominated markets should not be blaming MIDT. They should be blaming their strategy or their efficiency. The only way for small airlines to compete with the big guys is to adopt strategies and procedures that take advantage of the evolving airline industry.

We believe that the second proposed data restriction, which suggests a ban on the release of data on bookings for airlines that have not consented to the release of data on their

bookings, would almost certainly make the data worthless and eliminate entirely any remaining demand for the product. For reasons stated above, if airlines were able to opt out of the MIDT, then the data would no longer show the full air travel picture in specific markets and would become worthless for planning and scheduling and yield management purposes.

MIDT shines a light on the product of air travel. The data reveals the travel patterns throughout the world. This information allows carriers to adjust their planning, scheduling, and yield management in order to improve the product and better satisfy customer demand. As the domestic and global economies evolve, so do the world's travel patterns. MIDT helps airline to adapt to these changing patterns and better serve the consumers who fly.

The major carriers that operate globally are purchasing the full MIDT data set from all GDSs today. Most of the complaints are originating from the small to midsize carriers whose operations are primarily regional. Several smaller airlines complain that the high price barrier associated with MIDT prevents them from utilizing this valuable resource. Up until a few years ago, there were no options for smaller carriers to purchase a subset of data from the GDSs. Recently, the GDSs have attempted to offer a selected MIDT product to small and midsize airlines, but the pricing structure the GDSs have established is way out of line. However, recent events indicate that this problem is correcting itself. The market for those who are able to purchase the full data set of MIDT is saturated, and the GDSs, determined to sustain growth, are continuously launching new MIDT products aimed at enticing small to midsize carriers, travel agencies, airports, consulting companies, etc. We do believe over time, natural market forces will facilitate a change in MIDT products and pricing, and there will be a better pricing structure that will be more attractive to those who are currently being alienated by the traditionally high price barrier associated with MIDT. However, it is our belief that if the data restrictions that have been proposed are implemented, then MIDT will be deemed virtually worthless by airlines, resulting in the collapse of the MIDT industry. It is feasible that a change in price structure would solve most of the current issues while preserving the integrity of the data and satisfying all parties involved. The majority of the complaints in the proposed ruling are very outdated and a lot of the complaints are no longer valid due to changes from the GDSs adjusting to the requests from airlines and the evolution of the industry.

Several parties contend that airlines use the data to "poach" customers already booked on another airline. These isolated instances should be dealt with accordingly. The use of the data should be regulated, but for the most part, not the data itself. Several recent moves by the GDSs to encrypt record locators and to hide the identities of corporate inplant locations have not impacted the legitimate use of the data, but they should help to curb the abuse of the data.

No matter what the line of business, there are many resources that are available to help us more efficiently do our jobs. An example of a resource could be a tool such as a saw or a hammer. Another example of a resource could be an Internet service provider that allows us to freely exchange and transmit data. And it's safe to say that no matter what the

resource, there will always be someone somewhere who will find a way to negatively use it. I can think of nothing that cannot be used in a negative way when placed in the wrong hands. A hammer can be used to erect a building or to assault a victim. The Internet can be used to share knowledge or to spread a virus. However, rather than eliminating the sale of hammers or Internet service, we make rules to make their negative utilization illegal and we enforce those rules accordingly. We realize that there is a positive side to these tools, and that many people have become dependent on them. Eliminating the Internet and the hammer would produce unpredictable and irrevocable repercussions. Such is the case with MIDT. We cannot allow those few who are using the data negatively to force the creation of rules that restrict all of the legitimate users. The implementation of the data restrictions proposed will not only eliminate some of the complaints against the data, but will eliminate the positive side of the data as well. In short, the misuse of the data should be regulated rather than the data itself.